

**REMARKS**

This amendment is in response to the Office Action dated September 14, 2007. Because this response is mailed on December 11, 2007, the amendment is timely filed.

**I. Status of the Amendments**

Prior to this amendment, claims 1-14 were pending. By this amendment, claims 1, 3, 4, 8, 13 and 14 have been amended, claims 2 and 7 has been canceled without prejudice to refile, and claim 15 has been added. Consequently, claims 1, 3-6, and 8-15 are pending.

Independent claim 1 has been amended to recite the subject matter of original dependent claims 2 and 7, now canceled. Additionally, relative to the tear-off strip that surrounds completely a top portion of the airtight outer wrapping to permit the outer wrapping to be opened thereby, *see, e.g.*, Figs. 3 and 4 and page 6, lines 10-11; relative to the at least one reusable box comprising a cup-shaped lid hinged to the container along a hinge to rotate, with respect to container, between an open position and a closed position respectively opening and closing the opening, *see, e.g.*, Figs. 2 and 4 and page 5, lines 4-11; and relative to the reusable box comprising a collar projecting partly outwards of the opening to engage a corresponding inner surface of the lid when the lid is in the closed position, *see, e.g.*, Figs. 2 and 4.

Dependent claims 3, 4 and 8 have been amended in light of the cancellation of claims 2 and 7 and of the amendments to claim 1. Dependent claim 13 has been amended to correct a grammar error. Dependent claim 14 has been amended to correct the typographical error. The scope of the dependent claims has not been changed as a consequence of these amendments.

Applicant previously paid for three independent claims and twenty total claims. Consequently, no fee is due.

## **II. Response to September 14 Office Action**

The applicants respond to the September 14 Office Action as follows:

### **A. Declaration**

The declaration is objected to as being defective because it references 37 C.F.R. 1.56(a), instead of 37 C.F.R. 1.56. Applicant respectfully disagrees that the declaration is somehow limited to 1.56(a) by the reference made therein. By executing the declaration, the signors are acknowledging their duty to disclose, which appears in 1.56(a). The remainder of 1.56 deals mainly with definitions of terms found in 1.56(a), and thus incorporated into 1.56(a) through the use of those terms in 1.56(a). Consequently, applicants submit that the declaration is not defective.

### **B. Information Disclosure Statement**

Applicant notes the comments made regarding the references listed in the specification. However, only two references were listed in the specification: U.S. Patent Nos. 5,301,805 and 5,669,493. The '493 patent was listed on a Form PTO-1449 (modified) that was submitted to the Office and subsequently initialed relative to the '493 patent. The '805 was cited in a Form PTO-892. Consequently, it is applicants' position that both references have been considered, despite any comments to the contrary on the top of page 3.

### **C. Claims 1, 3-6 and 8-14**

Claims 1 and 5-8 were rejected under 35 U.S.C. 102(b) as allegedly anticipated by Evers et al. (U.S. Patent No. 5,301,805). Claims 2-4 were rejected under 35 U.S.C. 103 as allegedly unpatentable over Evers et al. in view of Barber et al. (U.S. Patent No. 4,351,433), claims 9-11 over Evers et al. alone, and claims 12-14 over Evers et al. in view of Focke et al. (U.S. Patent No. 6,244,017). Claim 14 was also objected to for a typographical error.

Amended claim 1 recites, in pertinent part, that: a) each said packet comprises an outer package comprising an airtight outer wrapping; b) the outer package includes a tear-off strip that surrounds completely a top portion of the airtight outer wrapping to permit the outer wrapping to be opened thereby; c) the reusable box comprises a cup-shaped lid hinged to the container along a hinge to rotate, with respect to container, between an open position and a

closed position respectively opening and closing the opening; and d) the reusable box comprises a collar projecting partly outwards of the opening to engage a corresponding inner surface of the lid when the lid is in the closed position. Evers et al lacks each and every one of these limitations. Consequently, Evers et al cannot anticipate amended claim 1, and the rejection should be withdrawn.

In support of their arguments, applicants note the following: An airtight outer wrapping limits the exposure of the tobacco contained in the cigarettes inside each packet of cigarettes to environmental factors. Applicants believe that it is completely novel to have an airtight outer wrapping surrounding a packet of cigarettes, which outer wrapping is then inserted inside a rigid box having a hinge-lid. Applicants submit that the convention wisdom would provide an airtight outer wrapping surrounding the carton, and not each individual packet; thus, the packets, such as are illustrated in Evers et al., would not sufficiently protect the tobacco in the cigarettes inside each packet once the carton is opened.

Further, the recited tear-off strip permits quick and easy opening of the airtight outer wrapping through removal of the top portion of the airtight outer wrapping, which in turn permits easy extraction of the cigarettes when the packet is arranged inside the reusable box. The hinged cup-shaped lid better protects the cigarettes and provides faster and easier opening and closing of the lid compared with, for example, the lids proposed in Evers et al. Finally, the collar projecting partly outwards from the opening may keep the lid in the closed position in an easier manner when compared with the lid proposed in Evers et al.

As to the remaining references cited, applicants submit that, even if the references were combined, the combination would not include each and every limitation of the subject matter of amended claim 1. For example, even if one were to combine Barber et al. with Evers et al. (an issue applicants do not concede), the combination would still lack, for example, the hinged cup-shaped lid and the collar projecting partly outwards of the opening to engage a corresponding inner surface of the lid. Without a disclosure of each and every limitation, the combination cannot render the claimed subject matter unpatentable.

Applicants further note that the rejections of dependent claims 3-6 and 8-14 are based on the application of Evers et al. to claim 1. As illustrated above, Evers et al. does not recite

each and every limitation of claim 1. Consequently, the remaining rejections of claims 3-6 and 8-14 cannot stand for at least this reason, and should be withdrawn.

**D. Claim 15**

New independent claim 15 recites the limitations of claim 1 particularly noted above. Given the similarities between claim 15 and claim 1 in this regard, applicants submit that the arguments raised above relative to Evers et al. apply with equal force to claim 15. Consequently, claim 15 should be allowable for at least this reason.

However, claim 15 also recites, in pertinent part, that an entire upper wall of each packet is completely in direct contact with an upper wall of the airtight outer wrapping without the interposition of any intermediate element. Such feature is shown in Figs. 3 and 4, for example. The fact that the entire upper wall of each packet is completely in direct contact with an upper wall of the airtight outer wrapping without the interposition of any intermediate element may permit easy extraction of the cigarettes when the pack is arranged inside the hard-pack cigarette case.

In this regard, applicants submit that a conventional soft packet for cigarettes is typically provided with a band attached on the upper wall and extending transversely over the upper wall into the region of an adjoining front wall and rear wall. For example, U.S. Patent No. 5,762,186 illustrates a soft packet for cigarettes having a band 13 attached and extending transversely over an upper wall 14 of the cigarette block 12 into the region of an adjoining front wall 15 and rear wall 16. As another example, U.S. Patent No. 6,722,109 illustrates a soft packet for cigarettes having a band 32 that is folded in a U-shaped manner, is made of thin paper or the like, and extends transversely over the end wall 16; the band 32 has its legs 33 connected to the front wall 12 and rear wall 13 in each case by adhesive bonding. In other words, the conventional wisdom leads the skilled practitioner away from the recited subject matter of claim 15.

In view of the foregoing, it is respectfully submitted that the above application is in condition for allowance, and reconsideration is respectfully requested. If there is any matter that the Office would like to discuss, the Office is invited to contact the undersigned

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representative at the telephone number set forth below. In any event, the Director is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith to our Deposit Account No. 13-2855, under Order No. 20022/40550.

Dated: December 11, 2007

Respectfully submitted,

By \_\_\_\_\_  
Paul C. Craane

Registration No.: 38,851  
MARSHALL, GERSTEIN & BORUN LLP  
233 S. Wacker Drive, Suite 6300  
Sears Tower  
Chicago, Illinois 60606-6357  
(312) 474-6300  
Attorney for Applicant